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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,330	11/25/2003	David J. Twitchell	TWITCHELL.UTL	6513
21590	7590	09/30/2004	EXAMINER	
HINKLE & O'BRADOVICH, LLC 295 CULVER STREET SUITE A LAWERENCEVILLE, GA 30045			WEBB, SARAH K	
			ART UNIT	PAPER NUMBER
			3731	

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/722,330

Applicant(s)

TWITCHELL ET AL.

Examiner

Sarah K Webb

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 11/25/03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

1. Claim 19 is rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for interchangeable abrading tips, does not reasonably provide enablement for a pumice stone as an abrading tip. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make the invention commensurate in scope with these claims. The drawings do not illustrate a pumice stone, and specification does not enable one skilled in the art to connect a pumice stone to the device.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1,2,9,10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,730,098 to Chang in view of US Patent No. 3,906,940 to Kawada.

Chang discloses a hand-held apparatus in Figures 6-8 that includes a motor (51') enclosed within a housing. One end of the housing includes a suction cup (32') with an exfoliation tip (21') located within the vacuum space of the cup (column 6, lines 6-19). A

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tube (42') is connected between the vacuum space of the cup and the suction pump (41') (column 6, lines 57-67). Power is supplied to the motor (51') to rotate a shaft (52') connected to the abrading element (21') (column 7, lines 1-14). The power supply is also connected to a switch (53') on the housing and a suction pump (41') . The exfoliation tip has an impregnated surface (column 4, lines 14-29).

Chang fails to include the vacuum pump within the housing. Kawada discloses another hand-held device with a motor encased in a housing, a source of vacuum, a rotating disk for treating skin. Kawada teaches that the vacuum generation source can be contained in the housing (column 2, line 53 through column 3) so the device is more compact and easy to use (column 4, lines 14-15). It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the device of Chang to enclose the vacuum source in the housing, as taught by Kawada, in order to provide a more compact and user friendly device.

3. Claims 3-7, 13-18, 20, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang in view of Kawada, as applied to claim 1 above, and further in view of US Patent No. 6,629,983 to Ignon.

The modified Chang device fails to include a cylindrical wall at the end of the housing so that the suction cup fits over the cylindrical wall. Chang does state that the suction cup (32') can be formed as in Figures 1-5 (column 7, lines 30-35). In Figure 3, the suction cup (322) has a bell shape, and the cup fits over a cylindrical wall.

Ignon discloses another hand-held skin treatment device that includes an that has an abrasive disk located within the vacuum space of a suction cup. The end (43) of

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the housing (32) has a cylindrical wall, and the suction cup (36) fits over the wall in a snap-fit relationship (column 2, lines 57-65). Further, an O-ring (45) is located between the wall and cup to provide a seal. It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a cylindrical wall extending from the end of the housing of the modified Chang device, as Ignon teaches that this is another way to form an attachment mechanism between a suction cup and housing of a dermabrasion device.

Regarding claim 7, Ignon teaches that a vacuum tube can be provided with an inline filter (column 2, line 52). Regarding claims 16-20, the tip (21) provided with the Chang device could function as a buffer, sander, or vibrating tip.

4. Claims 8 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang, Kawada, and Ignon as applied to claims 7 and 13 above, and further in view of US Patent No. 6,241,739 to Waldron.

The modified Chang device fails to include a vent in the vacuum tube. Waldron shows a dermabrasion system in Figure 3 that includes a treatment tip (22), a suction tube (26), and a filter (18) located on the tube (26) between the treatment tip (22) and vacuum pump (24). As shown in Figure 10, Waldron teaches that a vent (50) can be included in the tube between the filter and the treatment tip in order to regulate the vacuum level (column 5, lines 30-38). It would have been obvious to one of ordinary skill in the art at the time the invention was made to include a vent in the vacuum tube of the modified Chang device in order to provide a means for controlling the vacuum level, as taught by Waldron.

Regarding claim 21, Waldron illustrates in Figure 14A that a suction cup can have an abrasive edge. Waldron also teaches that abrasive discs can be interchangeable with various discs for different purposes. (col. 4, line 67- col. 5, line 4).

5. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang in view of Kawada, as applied to claim 1 above, and further in view of US Patent No. 2,232,474 to Rauh.

The modified Chang device fails to form the suction cup with a ridge defining the opening. Chang does not explicitly show a distance between the tip and cup within the vacuum space. Rauh discloses a device with a rotating skin engaging tip (10) and a cup (18). Rauh shows that a soft rubber cup can have a ridge defining the opening. The cup also includes enough space inside to allow the tip to be offset from the ridge. It would have been obvious to one of ordinary skill in the art at the time the invention was made to form the cup of the modified Chang device with a ridge and space between the tip and the ridge, as Rauh teaches that this is one way to form a treatment device that includes a rotating tip within a cup.

6. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chang and Kawada in view of Ignon, as applied to claim 13 above, and further in view of Rauh.

The modified Chang device fails to form the suction cup with a ridge defining the opening. Rauh discloses another type of device with a rotating skin-engaging tip (10) and a cup (18). Rauh shows that a soft rubber cup can have a ridge defining the opening. It would have been obvious to one of ordinary skill in the art at the time the

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invention was made to form the cup of the modified Chang device with a ridge, as Rauh teaches that this is one way to form a treatment device that includes a rotating tip located within a cup.

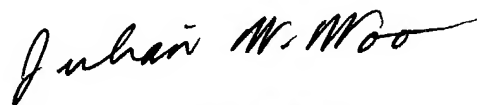
### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah K Webb whose telephone number is (703) 605-1176. The examiner can normally be reached on Mon-Fri 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan T. Nguyen can be reached on (703) 308-2154. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SKW  
09/02/04



JULIAN W. WOO  
PRIMARY EXAMINER